S.B. CIVIL WRIT PETITION NO.1311/2004

Miss Gurdarshan Kaur vs. State of Rajasthan and others.

Date : 17.2.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Dron Kaushik, for the petitioner.
Mr. L.R. Upadhyay, Dy.GA, for the respondent State.
Mr. S.G. Ojha for the respondent no.2.

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Heard learned counsel for the parties.

The facts of the case in brief are that the petitioner appeared for examination of LL.B. Final Year but he failed in two papers namely, Paper II and Paper IV in the result declared on 24.2.2003. The petitioner was eligible for appearing in supplementary examination in both the subjects. In addition to this, the petitioner was also eligible to submit application for revaluation of his answer books. The petitioner applied for revaluation of his answer books. Before declaration of result of revaluation, the petitioner appeared in supplementary examination in both the papers. The petitioner's result of supplementary examination was declared on 25.11.2003 and the petitioner was declared passed in Paper-IV but failed in Paper-II and as such, her result was declared as fail. Subsequent to that, on 20.12.2003, the petitioner was conveyed her revaluation result wherein

she was declared passed in Paper-II but as failed in Paper-IV. The petitioner is having to results with her – one dated 25.11.2003 i.e. Result of supplementary examination in which the petitioner was declared failed whereas in the result of 20.12.2003 declared after the revaluation of the original answer books wherein she was declared eligible to appear in supplementary examination in Paper-IV.

According to learned counsel for the petitioner, if the result of revaluation would have come earlier, the petitioner would have passed Final Year LL.B. Course and simply because the result of revaluation came later on, therefore, she is being treated as student failed in final year LL.B.

Learned counsel Mr. S.G. Ojha appearing for respondent no.2 – M.D.S. University submitted that in view of Clause 6A(iii) of Ordinance 157A regarding Rules for revaluation of answer books, the petitioner's result shall remain unchanged because the petitioner who applied for revaluation and appeared in supplementary examination and as per clause (iii) on failing in revaluation, the result of the petitioner could have been declared as no change only. Clause (iii) reads as under :-

> “(iii) In case of candidate who applies for re-evaluation in the subject in which he was declared supplementary or fail, if after the re-evaluation the result remains fail or

supplementary to supplementary, the result will be declared as no Change."

I have considered the submissions of learned counsel for the parties.

Since the petitioner applied in time for re-evaluation of his answer books of the main application and though his result was declared late but that result was of the main examination only, therefore, even if the result of re-evaluation was declared subsequent to the petitioner's result in supplementary examination, still the effect of revaluation is a declaration of result of main examination only. Hence, the petitioner is required to be treated as cleared the Paper-II of LL.B. Final Year examination. The petitioner, therefore, was rightly described as a candidate eligible to appear in the supplementary examination for Paper-IV in the result of revaluation. Since the petitioner passed the Paper-IV in supplementary examination, therefore, the petitioner cleared all the papers of LL.B. Final year examination and the petitioner cannot be treated to be failed in any of the subjects. The late declaration of result of revaluation will not make the result of the petitioner effective from the date of declaration of re-evaluation but it will take effect from the date when the original result was declared.

Accordingly, this writ petition is allowed and the respondents are directed to declare the petitioner's result in consonance with the order of this Court.

(PRAKASH TATIA), J.

S.Phophaliya